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February 15, 2017

Ms. Karen Peltz Strauss
Mr. Eliot Greenwald
Mr. Bob Aldrich
Mr. Michael Scott
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **REQUEST FOR HIGHLY CONFIDENTIAL TREATMENT**
Purple Communications, Inc.
CG Docket Nos. 03-123 & 10-51

Dear Ms. Peltz Strauss, Mr. Greenwald, Mr. Aldrich & Mr. Scott:

Purple Communications, Inc. (Purple), pursuant to the *Second Protective Order*, DA 12-858, released May 31, 2012, in the above-captioned dockets, hereby requests highly confidential treatment of certain information contained in the enclosed letter.¹ Purple is also submitting a redacted version of this letter pursuant to the *Second Protective Order*.²

Purple hereby requests that all information contained after the headings *****BEGIN HIGHLY CONFIDENTIAL ***** and before the close headings *****END HIGHLY CONFIDENTIAL***** be treated as Highly Confidential Information under the *Second Protective Order*.³ As described below, the information contained in those headings is properly designated as Highly Confidential Information under paragraph 3 of Appendix A of the *Second Protective Order*, and is proprietary commercial and business information that is not

¹ See *Structure and Practices of the Video Relay Service Program* et al., CG Docket Nos. 10-51 & 03-123, Second Protective Order, DA 12-858 (May 31, 2012) ("*Second Protective Order*"); see also 47 C.F.R. §§ 0.457, 0.459.

² *Second Protective Order* ¶ 12.

³ *Second Protective Order* ¶ 2.

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customarily disclosed to the public or within the industry and is subject to Exemption 4 under the Freedom of Information Act (FOIA).⁴ Pursuant to paragraph 3 of the *Second Protective Order*, Purple has obtained Commission staff's written preliminary approval to designate the subject information as Highly Confidential.⁵

As this information is submitted voluntarily and absent any requirement by statute, regulation, or the Commission, Purple requests that, in the event that the Commission denies Purple's request for confidentiality, the Commission return the materials without consideration of the contents therein.⁶

(1) Identification of the specific information for which confidential treatment is sought.

Purple hereby seeks Highly Confidential treatment for all of the information in the enclosed letter that is contained after the headings *****BEGIN HIGHLY CONFIDENTIAL***** and before the close headings *****END HIGHLY CONFIDENTIAL*****, which is properly designated as Highly Confidential Information under paragraph 3 of Appendix A of the *Second Protective Order*.⁷

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

The information is being provided to the Commission in response to Commission staff's request for Video Relay Service (VRS) provider cost data.

(3) Explanation of the degree to which the information is commercial or financial or contains a trade secret or is privileged.

The subject information is highly sensitive Purple VRS operating cost information that would cause harm to Purple if disclosed. This information is properly designated Highly Confidential Information under paragraph 3 of Appendix A of the *Second Protective Order* as "[i]nformation that provides granular information about [Purple's] past, current, or future costs, revenues, marginal revenues, or market share, and future dividends."⁸ Further, this information constitutes proprietary commercial and business information under

⁴ *Second Protective Order* Appendix A; 5 U.S.C. § 552(b)(4).

⁵ *Second Protective Order* ¶ 3.

⁶ 47 C.F.R. § 0.459(e).

⁷ *Second Protective Order* Appendix A.

⁸ *Second Protective Order* Appendix A.

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Exemption 4 of the FOIA.⁹ Accordingly, Purple hereby requests that such information be treated as Highly Confidential Information under the *Second Protective Order* and not be made routinely available for public inspection.

(4) *Explanation of the degree to which the information contains a service that is subject to competition.*

The subject information describes Purple's operating costs. All of that information concerns the provision of competitive VRS.

(5) *Explanation of how disclosure could result in substantial competitive harm.*

The presence of competitors in the VRS market and the likelihood of competitive injury to Purple threatened by release of this information should compel the Commission to withhold the information designated as Highly Confidential Information from public disclosure. The Commission has provided assurances that it is "sensitive to ensuring that the fulfillment of its regulatory responsibilities does not result in the unnecessary disclosure of information that might put its regulatees at a competitive disadvantage."¹⁰

(6) *Identification of any measures taken by the submitting party to prevent unauthorized disclosure.*

In order to prevent unauthorized disclosure of the subject information, Purple is hereby submitting a request that the subject information be treated as Highly Confidential Information indefinitely, and Purple has obtained Commission staff's written preliminary approval to designate the subject information as Highly Confidential pursuant to paragraph 3 of the *Second Protective Order*.¹¹ Purple takes routine measures to ensure the confidentiality of this information during normal business operations, including instructing its employees and contracting partners not to disclose such information outside of Purple, and restricting access to this information internally.

(7) *Identification of whether information is available to the public and the extent of any previous disclosure of the information to third parties.*

The subject information is not ordinarily available to the public or to any third parties.

⁹ 5 U.S.C. § 552(b)(4).

¹⁰ *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, Report and Order, 13 FCC Rcd 24816, ¶ 8 (1998).

¹¹ *Second Protective Order* ¶ 3.

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- (8) *Justification of the period during which the submitting party asserts that material should not be available for public disclosure.*

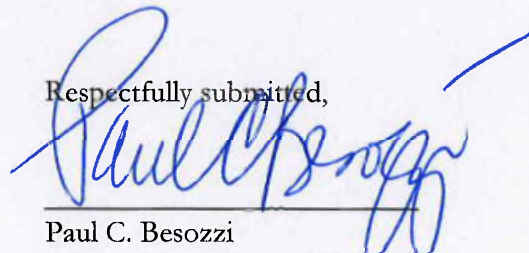
As described above, the subject information contains highly sensitive Purple operating cost information that could cause significant competitive injury to Purple if disclosed.¹² For this reason, Purple respectfully requests that the Commission protect this information from public disclosure indefinitely.

- (9) *Any other information that the party seeking confidential information believes may be useful in assessing whether its request for confidentiality should be granted.*

The subject information is being provided at the request of Commission staff. As this information is submitted voluntarily, Purple requests that, in the event that the Commission denies Purple's request for confidentiality, the Commission return the materials without consideration of the contents therein.

Should you have any questions concerning the foregoing request, please contact the undersigned.

Respectfully submitted,



Paul C. Besozzi
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202-457-5292
Counsel to Purple Communications, Inc.

¹² 5 U.S.C. § 552(b)(4).

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Ms. Karen Peltz Strauss
Mr. Eliot Greenwald
Mr. Bob Aldrich
Mr. Michael Scott
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

**Re: Video Relay Service (VRS) Rates, Purple Communications, Inc. (Purple)
Response to FCC Staff Request for VRS Provider Cost Information
CG Docket Nos. 03-123 & 10-51**

Dear Ms. Peltz Strauss, Mr. Greenwald, Mr. Aldrich & Mr. Scott:

In response to Commission staff's request for VRS provider cost information, Purple hereby submits the following cost data pertaining to Purple's provision of VRS (see in particular Appendix A). As can be seen from the cost data provided herein, current VRS rates threaten to eliminate participation of the non-dominant VRS providers and risk locking in a monopoly VRS market.

On January 31, Purple and the other non-dominant VRS providers submitted for the Commission's consideration a rate proposal that would create much needed VRS rate stability in order to enhance providers' ability to plan and grow, while also generating an estimated total \$14 million in cost savings to the TRS Fund in the first four years of the Commission's implementation of the proposal.¹ The Non-Dominant Providers' VRS Rate Proposal is provided below for reference.²

VRS RATE PROPOSAL		
Tier	Monthly Minutes	Proposed Rate
<i>Emergent Rate</i>	0 – 500,000	\$5.29
<i>Tier I</i>	0 – 1,000,000	\$4.82
<i>Tier II</i>	1,000,001 – 2,500,000	\$4.35
<i>Tier III</i>	> 2,500,000	\$2.83

¹ Letter from Purple Communications, Inc., Convo Communications, LLC, CSDVRS, LLC dba ZVRS, and ASL Services Holdings, LLC dba GlobalVRS to Marlene H. Dortch, Secretary, Federal Communications Commission, CG Docket Nos. 10-51 & 03-123, at 2, 8-10 (Jan. 31, 2017) ("Non-Dominant Providers' VRS Rate Proposal").

² See also Non-Dominant Providers' VRS Rate Proposal at 8-10.

1. Purple Operating Expenses At Volume

The chart below shows Purple’s operating expenses (“opex”) at volume, and shows Purple’s estimates of the reductions (i.e. economies of scale) achieved as monthly VRS minutes relayed increase. This chart is derived from and reflects Purple’s 2015 actual cost data, which is provided in detail in Appendix A.

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As previously stated to the Commission, and as can be seen from the chart above, Purple estimates that a majority of the available economies of scale for VRS providers are achieved when a VRS provider reaches 2.5 million monthly minutes relayed.³ For this reason, the non-dominant providers have proposed to raise the VRS Tier III minute threshold to 2.5 million monthly minutes relayed.⁴

³ Non-Dominant Providers’ VRS Rate Proposal at 9-10, n. 28.

⁴ Non-Dominant Providers’ VRS Rate Proposal at 8.

The chart below shows, within each of the non-dominant providers' proposed VRS rate tiers, the estimated per-minute cost reductions achieved as VRS monthly minutes relayed increase in increments of 100,000. This chart is derived from and reflects Purple's 2015 actual cost data.

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As can be seen above, Purple estimates that each increase of 100,000 VRS monthly minutes results in a ***BEGIN HIGHLY CONFIDENTIAL*** ***END HIGHLY CONFIDENTIAL*** reduction in the provider's per minute cost of operation both for providers relaying up to 1 million monthly minutes and for providers relaying greater than 1 million monthly minutes up to 2.5 million monthly minutes. However, for providers relaying greater than 2.5 million monthly minutes up to 8.5 million monthly minutes, each increase of 100,000 VRS monthly minutes results in a projected cost savings of only about ***BEGIN HIGHLY CONFIDENTIAL*** ***END HIGHLY CONFIDENTIAL***. As these estimates demonstrate, after a VRS provider reaches 2.5 million monthly minutes, continued growth yields substantially less economies of scale and cost reduction.

2. Estimated Savings to TRS Fund of Implementing VRS Rate Proposal

By adopting the Non-Dominant Providers' VRS Rate Proposal, the Commission would generate an estimated \$14 million in cost savings to the TRS Fund in the first four years of the Proposal's implementation, as detailed below.⁵

New 3 Tier Model Saves the Fund Money				
Year	Industry Minutes	Fund Demand 2017 Rates	Fund Demand (New Tiers/Rates)	Increase / (Decrease)
2017	133,695,044	\$ 490,616,034	\$ 486,485,495	\$ (4,130,539)
2018	138,068,288	\$ 506,390,749	\$ 502,745,814	\$ (3,644,935)
2019	142,441,532	\$ 522,446,756	\$ 519,106,863	\$ (3,339,893)
2020	146,814,777	\$ 538,567,508	\$ 535,774,678	\$ (2,792,831)
Totals	561,019,641	\$ 2,058,021,047	\$ 2,044,112,849	\$ (13,908,198)

- Assumes an approximate 3.1% annual increase in total VRS minutes (based on past 7 years)

To calculate the above, Purple estimated the minutes relayed by each VRS provider based principally on information contained in Rolka Loube's annual reports.⁶ Purple then estimated the total TRS Fund disbursements by provider using: (a) the current 2017 Tiers and rates (to calculate "Fund Demand 2017 Rates" above), and (b) the rates and tiers proposed by the non-dominant providers (to calculate "Fund Demand (New Tiers/Rates)" above). The estimated cost savings to the TRS Fund of the Non-Dominant Providers' VRS Rate Proposal was calculated by subtracting the Fund Demand (New Tiers/Rates) from the Fund Demand 2017 Rates values.

Note that in accordance with the partial rate freeze for Tier I Providers, calculations for those providers in H1 2017 reflect their currently scheduled rate path. For H2 2017 going forward, the \$4.82 per minute rate was used as the "Current" tier I rate. This analysis resulted in the stated savings to the Fund of \$13.9M.

⁵ See Non-Dominant Providers' VRS Rate Proposal at 10, n. 31.

⁶ See, e.g., Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Dockets Nos. 03-123 & 10-51, Exhibit 2 (Apr. 29, 2016).

3. Purple Operating Cost Data

Purple hereby submits its 2015 actual cost data, as previously reported to Rolka Loube. 2016 cost data is not yet available because it is still being compiled for submission to Rolka Loube.

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- (1) Categories are based on Rolka Loube's annual cost report.
- (2) Based on 2015 actual costs as reported to Rolka Loube.

A chart that breaks out in detail Purple's 2015 actual costs in each cost category above has been provided at Appendix A.

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APPENDIX A – PURPLE 2015 ACTUAL COSTS CHART

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